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INTERSTATE COMMERCE COMMISSION

AGREEMENT AND ASSIGNMENT

Dated as of January 2, 1979

between

CONSTRUCTURA NACIONAL DE CARROS DE FERROCARRIL,

Builder,

and

FIRST SECURITY BANK OF UTAH, N.A.,
not in its individual capacity but solely as Agent under
a Participation Agreement dated as of the date hereof,

Assignee.

AGREEMENT AND ASSIGNMENT dated as of January 2, 1979, between CONSTRUCTURA NACIONAL DE CARROS DE FERROCARRIL (hereinafter called the Builder) and FIRST SECURITY BANK OF UTAH, N.A., not in its individual capacity but solely as Agent under a Participation Agreement dated as of the date hereof (hereinafter called the Assignee).

The Builder and First Security State Bank, as Trustee (hereinafter together with its successors and assigns called the Owner-Trustee) under a Trust Agreement dated as of December 29, 1978, as amended by an Agreement dated as of January 2, 1979, with General Electric Credit Corporation and Westinghouse Credit Corporation (hereinafter individually called an Owner and collectively called the Owners), have entered into a Conditional Sale Agreement dated as of the date hereof (hereinafter called the Conditional Sale Agreement) covering the construction, sale and delivery, on the conditions therein set forth, by the Builder and the purchase by the Owner-Trustee of the railroad equipment described in Annex B to the Conditional Sale Agreement (said equipment being hereinafter called the Equipment).

The Owner-Trustee and GAMS Transportation, Inc. (hereinafter called Great American), have entered into a Lease of Railroad Equipment dated as of the date hereof providing for the lease to Great American of the Equipment, and Great American and William M. Gibbons, Trustee of the Property of Chicago, Rock Island and Pacific Railroad Company (hereinafter called the Railroad and the Railroad and Great American being sometimes collectively called the Lessees) have entered into a Sublease of Railroad Equipment dated as of the date hereof (such Sublease and the Lease being hereinafter collectively called the Leases) providing for the sublease to the Railroad of the Equipment.

NOW, THEREFORE, THIS AGREEMENT AND ASSIGNMENT WITNESSETH: that in consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration paid by the Assignee to the Builder, the receipt of which is hereby acknowledged, as well as of the mutual covenants herein contained, the parties hereto agree as follows:

SECTION 1. The Builder hereby assigns, transfers and sets over unto the Assignee, its successors and assigns:

(a) all the right, title and interest of the Builder in and to each unit of Equipment when and as delivered to and accepted by the Owner-Trustee, subject to payment by the Assignee to the Builder of the amount required to be paid pursuant to Section 4 hereof and subject to the payment to the Builder by the Owner-Trustee of the amounts required to be paid pursuant to subparagraph (a) of the third paragraph of Article 4 of the Conditional Sale Agreement;

(b) all the right, title and interest of the Builder in and to the Conditional Sale Agreement (except the right to construct and deliver the Equipment, the right to receive the payments specified in subparagraph (a) of the third paragraph of Article 4 thereof, the right to reimbursement for taxes paid or incurred by the Builder and the right to receive indemnity payments, as Builder, under Article 13 thereof and Annex A thereto), and, except as aforesaid, in and to any and all amounts which may be or become due or owing to the Builder under the Conditional Sale Agreement on account of the indebtedness in respect of the Purchase Price (as defined in the Conditional Sale Agreement) of the Equipment and interest thereon, and in and to any other sums becoming due from the Owner-Trustee under the Conditional Sale Agreement, other than those hereinabove excluded; and

(c) except as limited by subparagraph (b) of this paragraph, all the Builder's rights, titles, powers, privileges and remedies under the Conditional Sale Agreement;

without any recourse hereunder, however, against the Builder for or on account of the failure of the Owner-Trustee to make any of the payments provided for in, or otherwise to comply with, any of the provisions of the Conditional Sale Agreement, provided, however, that this Assignment shall not subject the Assignee to, or transfer, or pass, or in any way affect or modify, the obligations of the Builder to construct and deliver the Equipment in accordance with the Conditional Sale Agreement or with respect to its warranties and agreements contained or referred to in Article 13 of the Conditional Sale Agreement or relieve the Owner-Trustee from its obligations to the Builder contained in Articles 2, 3, 4, 6 and 13 of the Conditional Sale Agreement, it being understood and agreed that, notwithstanding this Agreement, or any subse-

quent assignment pursuant to the provisions of Article 14 of the Conditional Sale Agreement, all obligations of the Builder to the Owner-Trustee with respect to the Equipment shall be and remain enforceable by the Owner-Trustee, its successors and assigns, against and only against the Builder. In furtherance of the foregoing assignment and transfer, the Builder hereby authorizes and empowers the Assignee in the Assignee's own name, or in the name of the Assignee's nominee, or in the name of and as attorney, hereby irrevocably constituted, for the Builder, to ask, demand, sue for, collect, receive and enforce any and all sums to which the Assignee is or may become entitled under this Assignment and compliance by the Owner-Trustee with the terms and agreements on its part to be performed under the Conditional Sale Agreement, but at the expense and liability and for the sole benefit of the Assignee.

SECTION 2. The Builder agrees that it shall construct the Equipment in full accordance with the Conditional Sale Agreement and will deliver the same upon completion to the Owner-Trustee in accordance with the provisions of the Conditional Sale Agreement; and that, notwithstanding this Assignment, it will perform and fully comply with each of and all the covenants and conditions of the Conditional Sale Agreement set forth to be performed and complied with by the Builder. The Builder further agrees that it will warrant to the Assignee and the Owner-Trustee that at the time of delivery of each unit of the Equipment under the Conditional Sale Agreement it had legal title to such unit and good and lawful right to sell such unit and that such unit was free of all claims, liens, security interests and other encumbrances of any nature except only the rights created under the Conditional Sale Agreement, this Agreement and Assignment and the Leases; and the Builder further agrees that it will defend the title to such unit against the demands of all persons whomsoever based on claims originating prior to the delivery of such unit by the Builder under the Conditional Sale Agreement; all subject, however, to the provisions of the Conditional Sale Agreement and the rights of the Owner-Trustee thereunder.

SECTION 3. The Builder agrees with the Assignee that in any suit, proceeding or action brought by the Assignee under the Conditional Sale Agreement for any installment of, or interest on, indebtedness in respect of the Purchase Price of the Equipment or to enforce any provision of the Conditional Sale Agreement, the Builder will indemnify, protect

and hold harmless the Assignee from and against all expenses, loss or damage suffered by reason of any defense, setoff, counterclaim or recoupment whatsoever claimed by the Owner-Trustee or either Lessee arising out of a breach by the Builder of any obligation with respect to the Equipment or the manufacture, construction, delivery or warranty thereof, or by reason of any defense, setoff, counterclaim or recoupment whatsoever arising by reason of any other indebtedness or liability at any time owing to the Owner-Trustee or either Lessee by the Builder. The Builder's obligation so to indemnify, protect and hold harmless the Assignee is conditional upon (a) the Assignee's timely motion or other appropriate action, on the basis of Article 14 of the Conditional Sale Agreement, to strike any defense, setoff, counterclaim or recoupment asserted by the Owner-Trustee or either Lessee in any such suit, proceeding or action and (b) if the court or other body having jurisdiction in such suit, proceeding or action denies such motion or other action and accepts such defense, setoff, counterclaim or recoupment as a triable issue in such suit, proceeding or action, the Assignee's prompt notification to the Builder of the asserted defense, setoff, counterclaim or recoupment and the Assignee's giving the Builder the right, at the Builder's expense, to compromise, settle or defend against such defense, setoff, counterclaim or recoupment.

Except in cases of articles or materials specified by either Lessee and not manufactured by the Builder and in cases of designs, systems, processes, formulae or combinations specified by the Railroad and not developed or purported to be developed by the Builder, the Builder agrees to indemnify, protect and hold harmless the Assignee from and against any and all liability, claims, costs, charges and expenses, including royalty payments and counsel fees, in any manner imposed upon or accruing against the Assignee or its assigns because of the use in or about the construction or operation of any of the Equipment of any design, system, process, formula, combination, article or material which infringes or is claimed to infringe on any patent or other right. The Assignee will give prompt notice to the Builder of any claim actually known to the Assignee which is based upon any such alleged infringement and will give the Builder the right, at the Builder's expense, to compromise, settle or defend against such claim. The Builder agrees that any amounts payable to it by the Owner-Trustee or either Lessee with respect to the Equipment, whether pursuant to the Conditional Sale Agreement or otherwise, not hereby assigned

to the Assignee, shall not be secured by any lien, charge or security interest upon the Equipment or any unit thereof.

SECTION 4. Subject to the provisions of Article 3 of the Conditional Sale Agreement and Paragraph 9 of the Participation Agreement, the Assignee, on each Closing Date fixed as provided in Article 4 of the Conditional Sale Agreement with respect to a Group (as defined in said Article 4) of the Equipment, shall pay to the Builder an amount equal to the portion of the Purchase Price thereof which, under the terms of said Article 4, is payable in installments, provided that there shall have been delivered to the Assignee on or prior to such Closing Date, the following documents, in form and substance satisfactory to it and to its special counsel, Messrs. Cravath, Swaine & Moore, in such number of counterparts as may be reasonably requested by said special counsel:

(a) an instrument or instruments from the Builder to the Assignee transferring to the Assignee the security interest of the Builder in such units, warranting to the Assignee and to the Owner-Trustee that, at the time of delivery of such units under the Conditional Sale Agreement, the Builder had legal title to such units and good and lawful right to sell such units and such units were free of all claims, liens, security interests and other encumbrances of any nature except only the rights created under the Conditional Sale Agreement, this Agreement and Assignment and the Leases, and covenanting to defend the title to such units against demands of all persons whomsoever based on claims originating prior to the delivery of such units by the Builder under the Conditional Sale Agreement;

(b) a Certificate or Certificates of Acceptance with respect to the units of the Equipment in such Group as contemplated by Article 3 of the Conditional Sale Agreement and § 2 of the respective Leases;

(c) a Certificate or Certificates of Approval with respect to the units of the Equipment in such Group as contemplated by Article 3 of the Conditional Sale Agreement and § 2 of the respective Leases;

(d) an invoice of the Builder for the units of the Equipment in such Group;

(e) an opinion of Lic. Carlos Manuel Fuerte Daza,

Mexican counsel for the Builder, as to all matters involving the laws of Mexico and of Messrs. Arent, Fox, Kintner, Plotkin & Kahn, independent counsel for the Builder, dated as of such Closing Date, addressed to the Assignee and the Owner-Trustee, to the effect that the aforesaid instrument or instruments have been duly authorized, executed and delivered by the Builder and are valid and effective to vest in the Assignee the security interest of the Builder in the units of the Equipment in such Group, free from all claims, liens, security interests and other encumbrances (other than those created by the Conditional Sale Agreement, this Agreement and Assignment and the Leases) arising from, through or under the Builder, and to the effect that, subject to said security interests, good and lawful title to the Units of Equipment in such Group passed to the Owner-Trustee upon delivery and acceptance thereof under the Conditional Sale Agreement;

(f) a receipt from the Builder for any payment (other than the payment being made by the Assignee pursuant to the first paragraph of this Section 4) required to be made on such Closing Date to the Builder with respect to the Equipment, unless the payment is made by the Assignee with funds furnished to it for that purpose by the Owner-Trustee;

(g) evidence satisfactory to the Assignee, the Owner-Trustee and the Owners indicating that the Builder has paid all duties and custom charges owing to the United States of America or otherwise in respect of the units of the Equipment in such group or that the Builder has posted a bond or bonds guaranteeing the payment of the same; and

(h) a certification by each of the Railroad, Great American and the Owner-Trustee as to its approval of the invoice of the Builder for the units of Equipment in such group.

In giving the opinion specified in clause (e) of the immediately preceding paragraph, Messrs. Arent, Fox, Kintner, Plotkin & Kahn may rely, as to all matters governed by the laws of Mexico, on the opinion of Lic. Carlos Manuel Fuerte Daza, Mexican counsel for the Builder provided that in the case of any such reliance, Messrs. Arent, Fox, Kintner, Plotkin & Kahn shall state that in their opinion such Mexican

counsel for the Builder is deemed by them to be responsible and that the parties to whom their opinion is addressed and counsel to such parties are justified in relying on such opinion of Mexican counsel.

In the event that the Assignee shall not make any such payment, the Assignee shall reassign to the Builder, without recourse to the Assignee unless the Assignee shall have failed to make such payment notwithstanding its receipt of the documents specified in this Section in satisfactory form as aforesaid, all right, title and interest of the Assignee in and to the units of Equipment with respect to which payment has not been made by the Assignee.

SECTION 5. The Assignee may assign all or any of its rights under the Conditional Sale Agreement, including the right to receive any payments due or to become due to it from the Owner-Trustee thereunder. In the event of any such assignment, any such subsequent or successive assignee or assignees shall, to the extent of such assignment, and upon giving the written notice required in Article 14 of the Conditional Sale Agreement, enjoy all the rights and privileges and be subject to all the obligations of the Assignee hereunder.

SECTION 6. The Builder hereby:

(a) represents and warrants to the Assignee, the Owner-Trustee, as third party beneficiary, and their successors and assigns, that the Conditional Sale Agreement was duly authorized by it and duly and lawfully executed and delivered by it for a valid consideration, that, assuming due authorization, execution and delivery by the Owner-Trustee, the Conditional Sale Agreement is, as to the Builder, a legal, valid and existing agreement binding upon the Builder in accordance with its terms and that, as to the Builder, is now in force without amendment thereto;

(b) agrees that it will from time to time, at the request of the Assignee or its successors or assigns, make, execute and deliver all such further instruments of assignment, transfer and assurance and do all such further acts and things as may be necessary and appropriate in the premises to give effect to the provisions hereinabove set forth and more perfectly to confirm the rights, titles and interests hereby assigned and transferred to the Assignee or intended so to be; and

(c) agrees that, subsequent to payment of the sums due it hereunder and under the Conditional Sale Agreement, upon request of the Assignee, its successors and assigns, it will execute any and all instruments which may be necessary or proper in order to discharge of record the Conditional Sale Agreement or any other instrument evidencing any interest of the Builder therein or in the Equipment.

SECTION 7. The terms of this Assignment and all rights and obligations hereunder shall be governed by the laws of the State of Utah, provided, however, that the parties shall be entitled to all the rights conferred by 49 U.S.C. § 11303, such additional rights arising out of the filing, recording or depositing of the Conditional Sale Agreement and this Assignment as shall be conferred by the laws of the several jurisdictions in which the Conditional Sale Agreement or this Assignment shall be filed, recorded or deposited, or in which any unit of the Equipment shall be located, and any rights arising out of the marking on the units of Equipment.

SECTION 8. The Builder hereby appoints Messrs. Arent, Fox, Kintner, Plotkin & Kahn and their successors and assigns, having an office on the date hereof at 1815 H Street, N.W., Washington, D. C. 20006, as its authorized agent upon which process may be served in any action, suit or proceeding which may be instituted in any state or Federal court in the United States of America by any person asserting a claim against the Builder or its successors or assigns in any way related to or arising or alleged to arise out of this Agreement or in respect of any unit of the Equipment, and will accept generally and unconditionally the jurisdiction of such court in such action for itself and respect of its property. The Builder hereby waives, and agrees not to assert, by way of motion, as a defense or otherwise, in any such action, suit or proceeding, the defense of sovereign immunity, any claim that it is not personally subject to the jurisdiction of the above-named courts by reason of sovereign immunity or otherwise, that its property is exempt or immune from execution or attachment, either prior to judgment or in aid of execution, that the suit, action or proceeding is brought in an inconvenient forum, that the venue of the suit, action or proceeding is improper or that this Agreement or the subject matter hereof may not be enforced in or by such courts. A copy of any process shall be sent or given to the Builder at its address for notices specified in Article 20 of the Conditional Sale Agreement.

SECTION 9. This Assignment may be executed in any number of counterparts, all of which together shall constitute a single instrument. Although for convenience this Assignment is dated as of the date first above written, the actual date or dates of execution hereof by the parties hereto is or are, respectively, the date or dates stated in the acknowledgments hereto annexed.

IN WITNESS WHEREOF, the parties hereto, each pursuant to due corporate authority, have caused this instrument to be executed in their respective corporate names by duly authorized officials, and their respective corporate seals to be hereunto affixed and duly attested, all as of the date first above written.

CONSTRUCTURA NACIONAL DE CARROS
DE FERROCARRIL,

by

[Corporate Seal]

Attest:

FIRST SECURITY BANK OF UTAH, N.A.,
not in its individual capacity
but solely as Agent,

by

Authorized Officer

[Seal]

Attest:

Authorized Officer

UNITED MEXICAN STATES,)
 United Mexican States)
 STATE OF Federal District ,)
 City of Mexico } ss.:
 CITY OF Embassy of the United ,)
 States of America)
 CONSULATE OF THE UNITED STATES OF AMERICA ,)

APR - 9 1979 On this day of April 1979, before me personally appeared SERGIO CAMARGO PINO to me personally known, who, being by me duly sworn, says that he is Subdirector of CONSTRUCTURA NACIONAL DE CARROS DE FERROCARRIL, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its , and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Nancy A. McKee
 Vice Consul of the
 United States of America
 Nancy A. McKee
 Consul of the United States
 of America

[Seal]

STATE OF UTAH,)
) ss.:
 COUNTY OF SALT LAKE,)

On this day of April 1979, before me personally appeared , to me personally known, who, being by me duly sworn, says that he is an Authorized Officer of FIRST SECURITY BANK OF UTAH, N.A., that one of the seals affixed to the foregoing instrument is the seal of said national bank, that said instrument was signed and sealed on behalf of said national bank by authority of its By-Laws, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said national bank.

 Notary Public

[Notarial Seal]

My Commission Expires

ACKNOWLEDGMENT OF NOTICE OF ASSIGNMENT

Receipt of a copy of, and due notice of the assignment made by, the foregoing Agreement and Assignment dated as of January 2, 1979, is hereby acknowledged as of January 2, 1979.

FIRST SECURITY STATE BANK,
as Owner-Trustee,

by

Authorized Officer

GAMS TRANSPORTATION, INC.,

by

GREAT AMERICAN INSURANCE
COMPANY,

by